

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

PEDRO GONZALEZ,

Defendant.

03 Cr. 1310 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

The Court is in receipt of Defendant Pedro Gonzalez's letter dated September 16, 2020, requesting that counsel be appointed for him to assist him in preparing a motion for compassionate release pursuant to 18 U.S.C. Section 3582(c)(1)(A). A copy of that letter is attached hereto.

The C.J.A. Attorney on duty on October 6, 2020, Michael Gilbert, is appointed to represent Defendant Pedro Gonzalez in connection with his planned motion for compassionate release, effective today.<sup>1</sup>

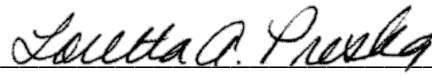
The Clerk of the Court is respectfully directed to mail a copy of this order to Mr. Gonzalez.

**SO ORDERED.**

Dated: New York, New York  
October 7, 2020

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<sup>1</sup> The Court had planned to appoint Mr. Gilbert on October 6 but received confirmation that he had no conflicts that would prevent him from being appointed on the morning of October 7.

A handwritten signature in black ink, reading "Loretta A. Preska". The signature is written in a cursive style with a horizontal line underneath it.

LORETTA A. PRESKA

Senior United States District Judge

Pedro Gonzalez  
Reg. No. 55527054  
FCI Fort Dix  
P.O. BOX 2000  
Fort Dix, NJ 08640

**RECEIVED**

OCT 05 2020

LORETTA A. PRESKA  
U.S. DISTRICT JUDGE  
S.D.N.Y.

September 16, 2020

Honorable Loretta A. Preska  
Senior United States District Court Judge  
500 Pearl St.  
New York, NY 10007

**RECEIVED**

OCT 05 2020

Re: United States v. Gonzalez  
Criminal No.03-1310-01

LORETTA A. PRESKA  
U.S. DISTRICT JUDGE  
S.D.N.Y.

Dear Judge Preska:

Please construe this correspondence as a motion to appoint counsel for purpose of filing a motion for compassionate release pursuant to 18 U.S.C. 3582(c)(1)(A). Gonzalez proffers the following in support thereof.

Gonzalez is currently serving a term of 35 years of imprisonment for violating several federal narcotics laws. At present, he has been incarcerated for more than 17 years. While serving this term of imprisonment, he has been diagnosed with, inter alia, Type II diabetes and hypertension.

A request for compassionate release was filed to the Warden of his institution arguing that in light of the COVID-19 pandemic and his medical conditions of diabetes and hypertension, 'extraordinary and compelling reason[s]' exist for the filing of a motion on his behalf under section 3582(c)(1)(A). That request is currently pending.

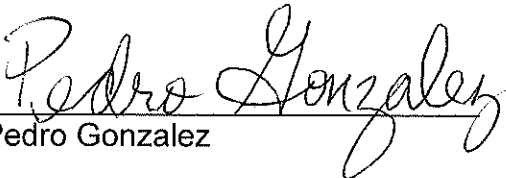
Generally, a request for compassionate release requires a threefold determination after the Court has determined that administrative remedies have been exhausted. First, the Court must consider the same factors applicable at the original sentencing, enumerated in 18 U.S.C. 3553(a), to the extent that they remain applicable at the time the motion is brought. Second, the Court must find 'extraordinary and compelling reasons' to release a defendant from the custody of the Federal Bureau of Prisons in a policy statement. Lastly, the Court must determine if the defendant is a danger to the safety of any other person or to the community, as provided in 18 U.S.C. 3142(g).

The instant request for appointment of counsel is filed before the court in anticipation of the Warden's denial of the compassionate release request. The instant request is non-frivolous as the Centers for Disease Prevention and Control has identified Type II diabetes and hypertension as comorbidities which increase the likelihood of serious risk from COVID-19. Moreover, since the onset of the COVID-19 pandemic, numerous courts in the Southern District of New York have recognized that inmates suffering from conditions such as hypertension and diabetes are now at even greater risk of deteriorating health, presenting 'extraordinary and compelling' circumstances that may justify compassionate release. See, e.g., *United States v. Zuckerman*, 2020 U.S. Dist. LEXIS 59588 @ 13-15 (S.D.N.Y. 2020); *United States v. Tseng*, 2020 U.S. Dist. LEXIS 136488 @ 2-3 (S.D.N.Y. 2020); *United States v. Hernandez*, 2020 U.S. Dist. LEXIS 121562 @ 6-7 (S.D.N.Y. 2020); *United States v. Bayou*, 2020 U.S. Dist. LEXIS 108696 @ 4 (S.D.N.Y. 2020).

Having presumably shown the existence of extraordinary and compelling reasons,' the appointment of counsel would aid Gonzalez in amassing the relevant 3553(a) mitigation material and further assist him in arguing why, when his instant offense and post-conviction conduct is assessed, he does not pose any danger to the public.

For the foregoing reasons, Gonzalez respectfully requests that the Court appoint counsel and afford any other such relief deemed appropriate under the circumstances.

Respectfully Submitted,

  
Pedro Gonzalez

cc: U.S. Attorney's Office for the  
Southern District of New York

TRULINGS 55527054 - GONZALEZ, PEDRO - Unit: FTD-P-B

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FROM: 55527054 GONZALEZ, PEDRO  
 TO: AW Operations  
 SUBJECT: \*\*\*Request to Staff\*\*\* GONZALEZ, PEDRO, Reg# 55527054, FTD-P-B  
 DATE: 07/30/2020 08:22 PM

To: Warden David Ortiz, head of fci fort dix  
 Inmate Work Assignment, commissary

Please construe this inmate request to staff as a formal request for compassionate release under 18 U.S.C. 3582(c)(1)(A) and/or a request for home confinement under the CARES Act. Specifically, Gonzalez asserts that "extraordinary and compelling reasons" exist which support his request for compassionate release and/or release to home confinement.

Gonzalez proffers the following in support thereof:

Gonzalez was convicted for federal narcotics offenses in the U.S. District Court for the southern District of New York and ultimately sentenced to to a term of 35 years imprisonment. He has now been in custody for more than 17 years.

The FBOP—and the country as a whole—are currently experiencing a pandemic related to covid-19, according to the Centers for Disease Control & Prevention (CDC), because Gonzalez suffers from diabetes, hypertension and high cholesterol he is among the class of individuals who are at risk of becoming seriously ill from covid-19. see

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-risk.html>. Indeed, several courts have noted "extraordinary and compelling reasons" exist for purpose of granting a request for compassionate release where the inmate suffered from diabetes, hypertension and/or high blood pressure. see e.g., *United States V. Scaparra*, 2020 U.S. Dist. Lexis 68935 (S.D.N.Y. 2020); *United States V. Williams*, 2020 U.S. Dist. Lexis 72510 (D.Conn. 2020); *United States V. Jamil*, 2020 U.S. Dist. Lexis 90507 (N.D. Cal. 2020).

Furthermore, prisons are inherently "at-risk" environments because of the difficulty in social distancing and challenges to maintaining sanitation. See *United States V. Mel*, 2020 U.S. Dist. 74491 @5 (D.Md. 2020); see also Joseph A. Bick, *Infection* (detailing difficulties in preventing transmissions of infectious diseases 1047 (2007)).

<http://academic.oup.com/cid/article/45/8/1047/344842>

if released, Gonzalez plans to reside with his wife Joelly Pagan in Pennsylvania. His wife would also aid and assist him in his readjustment into society.

500 Pearl Street  
Clerks Office  
New York NY 10007

USMP's  
STONY  
STONY

Honorable Lenetta A. Preska  
Senior United States District Court Judge  
Clerks Office  
500 Pearl Street  
New York NY 10007

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